

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

TX 2005-050135

08/31/2006

HON. THOMAS DUNEVANT, III

CLERK OF THE COURT
S. Brown
Deputy

ARIZONA STATE DEPARTMENT OF
REVENUE

DAVID J DIR

v.

GECKO RETAIL GROUP L L C, et al.

REBECCA L BULLOCK-REEVES
4722 NORTH 25TH STREET
STE. 300
PHOENIX AZ 85016

MINUTE ENTRY

The Court has considered Plaintiff's Motion for Summary Judgment. No Response has been received.

Pursuant to A.R.S. § 42-5028, Timothy Reeves, as manager of Gecko Retail Group, L.L.C., is liable for transaction privilege taxes not paid to the State by Gecko; A.R.S. § 43-435 imposes the same personal liability for unpaid withholding taxes. Defendant Rebecca Bullock-Reeves asserts that she is not liable based on the innocent spouse exception and the deliberate concealment by her former husband of his failure to pay taxes. The former is limited by statute to income taxes, which the State is not attempting to collect here. The latter goes to the liability of the community for debts incurred by one spouse without the knowledge of the other. It is the burden of the protesting spouse to show that there was no benefit to the community from the first spouse's activities. This is true even if the source of the benefit is concealed. *See, e.g., In re Oliphant*, 221 B.R. 506, 509 (Bankr.D.Ariz. 1998) (innocent wife liable for funds embezzled by former husband). Here, the failure to pay taxes artificially and wrongfully increased the assets of

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Gecko, and Defendant Bullock-Reeves was co-owner of Gecko. Gecko's profit therefore reached both Defendants, and both can properly be held liable.

Therefore, IT IS ORDERED granting Plaintiff's Motion for Summary Judgment against Defendant Rebecca L. Bullock-Reeves.